IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL LODGING NO.504 OF 2004
IN
NOTICE OF MOTION NO.2427 OF 2001
IN
SUIT NO.4723 OF 1993

Shri Narendra Gokani .. Appellant
v/s.

Famous Cine Laboratories &
Studios Ltd. & anr. .. Respondents

Mr.Atul Damle for appellant.

Mr.R.K.Thakkar for respondent No.1.

Mr.J.P.Singh i/by Mr.R.K.Midha for respondent No.2.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 5th October, 2004

P.C.

In the impugned order, the learned motion Judge has recorded that the defendant No.2 Narendra Gokani stated that he was willing to deposit substantial amount of principal i.e. Rs.3,00,000/- in the court within a period of eight weeks therefrom. The learned counsel for the appellant (defendant No.2) submits that no such statement was made by the defendant No.2 before the learned motion Judge. If that be so, the proper course available to the appellant (defendant NO.2) is to apply to the learned Judge for review of the order dated 23rd March, 2004. In so far as we are concerned, we find no reason not to accept the statement recorded in the impugned order.

2. Confronted with this difficulty, the learned counsel for the appellant prays for withdrawal of this appeal with liberty to apply for review of the order dated 23rd March, 2004.

3. We accede to the request of the learned counsel for the appellant and allow the appeal to be withdrawn with liberty as prayed.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)